

Investigation into Milingimbi School – The Principal's Initiative

Public statement

July 2021

Office of the
Independent
Commissioner
Against
Corruption



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Glossary

Acronyms and abbreviations

ALPA – Arnhem Land Progress Association

COGSO – Council of Government Schools Organisation

DLGHCD – Department of Local Government, Housing and Community Development

DOE – Department of Education

FTE – Full-time equivalent

ICAC – Independent Commissioner Against Corruption

ICAC Act – *Independent Commissioner Against Corruption Act 2017 (NT)*

NT – Northern Territory

NTG – Northern Territory Government

OICAC – Office of the Independent Commissioner Against Corruption

PI – Principal's Initiative

PID Act – Public Interest Disclosure Act 2008

RSAS – Remote School Attendance Strategy

SAMS – Student Administration Management System

SBM – School Business Manager

TRIPS – Travel Request Information Processing System.

Definitions

Authorised officer – the Independent Commissioner Against Corruption or a person appointed as an authorised officer under section 131 of the ICAC Act

Breach of public trust – pursuant to sections 10(3) and 13(1) of the ICAC Act

Corrupt conduct – pursuant to section 10 of the ICAC Act

Improper conduct – pursuant to section 9 of the ICAC Act

Investigation report – a report issued under section 50 of the ICAC Act

Independent Commissioner Against Corruption or **ICAC** – established by the ICAC Act

Non-disclosure direction – a direction under section 147 of the ICAC Act

Public officer – pursuant to section 16(2) of the ICAC Act

Public resources – pursuant to section 14 of the ICAC Act

Persons mentioned in this report

Person A – passenger on charter flight

Person B – passenger on charter flight

Person C – member of Milingimbi School Council

Person D – passenger on charter flight

Person E – passenger on charter flight

Person F – Chair, Milingimbi School Council

Person G – passenger on charter flight

Person H – passenger on charger flight

Person I – member of Milingimbi School Council

Person J – passenger on charter flight

Assistant Principal, Milingimbi School

The Honourable Eva LAWLER MLA – former Education Minister

Mr Bryn MCCULLOCH – son of Ms Sherrington and Mr Ian McCulloch and IT Support Officer, Milingimbi School

Mr Ian MCCULLOCH – partner of Ms Sherrington

Ms Madeleine MCCULLOCH – daughter of Ms Sherrington and Mr Ian McCulloch, Administration Officer, Milingimbi School

Milingimbi school teacher

Mr Bill PIPER – Partner, Piper Ellis Lawyers, legal representative for Ms Jennifer Sherrington

Remote School Attendance Strategy Coordinator, Arnhem Land Progress Association, Milingimbi

School business manager/bookkeeper

Ms Jennifer Lea SHERRINGTON – former Principal, Milingimbi School

Mr Liam SHERRINGTON – nephew of Ms Sherrington

Director, School Financial Improvement and Support, Department of Education

Legislation

Independent Commissioner Against Corruption Act 2017 (NT)

Education Act 2015

Education Regulations 2015

Fair Work Act 2009

Financial Management Act 1995

Fiscal Transparency and Integrity Act 2001

Public Interest Disclosure Act 2008

Public Sector Employment and Management Act 1993 (PSEMA)

Procurement Act 1995

Procurement Regulations 1995

Treasurer's Directions

ICAC jurisdiction and investigation methodology

1. On 26 September 2019 a mandatory report was submitted to the Office of the Independent Commissioner Against Corruption (OICAC).
2. The report alleged Ms Jennifer Sherrington, in her capacity as principal of Milingimbi School, allowed Mr Liam Sherrington, her nephew, to occupy Northern Territory Government (NTG) employee housing while he was not employed by the NTG.
3. Between 11 October 2019 and 9 November 2019, three anonymous reports were made to OICAC in relation to alleged improper conduct by the principal of Milingimbi School. The subject of these reports was similar in nature to the report received on 26 September 2019.
4. On 9 December 2019 OICAC received another report about Ms Sherrington. Allegations included:
 - nepotism in respect of recruitment, pay levels, use of vehicles and housing
 - inaccurate student attendance rolls
 - improper use of charter flights
 - unrecorded leave by numerous staff members.
5. On 12 December 2019 a further report was received by OICAC. Allegations included:
 - frequency with which the Principal attributed absence to illness
 - nepotism of the families of executive team members
 - the school's poor reputation in the community
 - frivolous expenditure of tax-payer money.
6. On 13 December 2019 a further report was received by OICAC. Allegations included:
 - nepotism
 - misuse of Department of Education (DOE) motor vehicles
 - misuse of the Milingimbi School canteen and stock held in the canteen
 - manipulation of student attendance data
 - incorrect recording in staff time sheets.

The ICAC determined to undertake a joint investigation with Department of Education (DOE), based on the above allegations.

Temporal jurisdiction

7. The ICAC Act commenced on 30 November 2018. Prior to that the *Public Interest Disclosure Act 2008* (PID Act) was in force. The PID Act was repealed by the ICAC Act on 30 November 2018.
8. The events of which this report speaks spread across a period of time from 2015 to 30 December 2019.
9. The matters recorded in the period since 30 November 2018 are unarguably within the jurisdiction of the Independent Commissioner Against Corruption (ICAC).
10. The matters recorded relating to the period before the commencement of the ICAC Act are considered here separately.
11. It is a fundamental principle that legislation will not be retrospective unless Parliament uses the clearest words to express that. Such an intention is expressed in section 8(1) of the ICAC Act as follows:

“8 *Meaning of conduct*

(1) Without limiting the conduct to which this Act applies, this Act extends to the following:

(a) conduct occurring before the commencement of this Act;

(b) conduct occurring outside the Territory;

(c) conduct engaged in:

(i) by a person who was a public officer at the time it was engaged in but who has since ceased to be a public officer; or

(ii) by an entity that was a public body at the time it was engaged in but that has since ceased to be a public body or has ceased to exist.”

12. The intention of the Act is that it extends to, and applies to, conduct occurring before the commencement of the Act.
13. Further, that is made abundantly clear by section 8(1)(c). If that was read on 30 November 2018 it must necessarily apply to conduct before the commencement of the Act.
14. All matters the subject of this report are dealt with pursuant to the ICAC Act.

Summary of the notices and directions

15. To date the following notices and directions have been served:
- Section 147 non-disclosure directions – 34
 - Section 32 notices to produce items or provide information – 3
 - Section 34 notices to attend for examination – 5.

Procedural obligations

Privilege

16. In the course of this investigation I have respected matters of confidentiality and privilege pursuant to Part 5 of the ICAC Act, including:
- client legal privilege.
 - privilege against self-incrimination.

Rules of evidence and natural justice

17. By section 60 of the ICAC Act I am not bound by the rules of evidence in the conduct of an investigation.
18. I am therefore concomitantly aware of the particular need to give natural justice to any person the subject of an investigation and Report.
19. If I, in a report, intend to make adverse findings about a person then, by section 50(2) of the ICAC Act, I *“must give the person...a reasonable opportunity to respond to the adverse material and include a fair representation of the response in the report.”*
20. That process commenced on 6 May 2021 when Ms Sherrington and her legal representative, Mr Bill Piper, Partner, Piper Ellis Lawyers, were supplied a draft of the adverse material and findings containing the relevant facts, and references to the relevant exhibits. A response was received from Ms Sherrington on 9 June 2021. This consisted of a five-page covering letter from Mr Piper, described as *a preamble to response to ICAC Investigation* and the response itself. The latter was contained in a 116 page document to which were attached 13 appendices that were voluminous in length. The relevant parts of that response are referred to from paragraph 126 – 150.
21. On 11 June 2021 the Chief Executive Officer of DOE, Ms Karen Weston, was provided with a draft of the findings and the material contained in the proposed report. Subsequently, informal

responses were received from her and her officers to the proposed findings. Those responses have been considered and, where appropriate, incorporated into the report.

Standard of proof

22. In all of my considerations of the available evidence in this investigation I have used the balance of probabilities as the standard of proof required to establish any relevant fact.
23. I have taken into account, in the use of that standard of proof, the gravity of the allegations against the respective people and bodies and the consequences for those people and bodies that may arise from this investigation.

Assessment of evidence

24. I have followed carefully all of the evidence in this investigation, and any response from each and every person and body against whom adverse findings have been made in this report, including unsworn responses.
25. In assessing the weight of any evidence, I have taken into account:
 - my observation of the various witnesses examined in the course of the matter
 - any inculpatory evidence
 - any exculpatory evidence
 - contemporary records such as emails and phone messages
 - documentary evidence.
26. Where I have doubted the veracity of evidence I have sought assistance from contemporary records to resolve doubts.

Summary of the report

27. Milingimbi School is located 440 kilometres east of Darwin. It is one of 89¹ very remote schools in the Northern Territory (NT). Attendance rates at the school are poor, as is the case in many remote communities. In addition to being rated as very remote, the school is in the bottom quarter of Australian schools according to socio-economic disadvantage.
28. As a result, the needs for students at the school are extremely high and so too are the demands on the staff, no less the principal. This can be said for many schools located in remote parts of the NT. Principals are public officers. Pursuant to the job description, they are responsible for leading the school's physical, financial and human resources. It is the expectation that they perform their duties with skill, impartiality, professionalism, and integrity; and comply with all relevant acts, guidelines and policies relevant to their role, including the *Public Sector Employment and Management Act 1993* (PSEMA).
29. What this also means is that significant reliance and trust is placed upon those persons in power, including principals, to do the right thing by the communities in which they have been chosen to serve.
30. Unfortunately, sometimes advantage is taken of that trust. Having heard and considered carefully all of the evidence in this matter, I find this is what has occurred here following the placement of significant trust upon Ms Sherrington in her role of principal.
31. This investigation arose from a combination of mandatory reports (2) and anonymous public reports (3) about the former principal of Milingimbi School, Ms Sherrington. The reports occurred between 26 September 2019 and 13 December 2019 and included allegations of:
 - improper use and/or allocation of NT government employee housing
 - fraudulent use of government and school council funds
 - improper use of staff travel
 - failure to adhere to DOE recruitment policy and procedures
 - improper use of public assets
 - falsification of school enrolment and attendance figures
 - failure to adhere to DOE leave policy and procedures.

¹ Cth Department of Education: <https://www.dese.gov.au/help-and-other-information/resources/very-remote-schools-list>

32. Noting that the principal is both a member of the school council and a public officer², on the balance of probabilities there is evidence of corrupt conduct as defined by section 10(2) of the ICAC Act as outlined below:

Financial

- Ms Sherrington benefited from her position as principal of Milingimbi School by misapplying DOE and Milingimbi school council funds. She achieved this misapplication by failing to observe DOE policies and procedures for expenditure from the Principal's Initiative (PI) cost code and debit card use. Benefits derived by Ms Sherrington included extended travel to and accommodation in Darwin, motor vehicle hire for personal shopping, quality dining and fast food purchases for herself, family members and friends.
- DOE's School Resourcing System was subject to misuse by Ms Sherrington and lacked adequate departmental scrutiny. Ms Sherrington used her autonomy to create a PI cost code which she used for the majority of funding for her personal benefit.
- Ms Sherrington failed to maintain proper records of all transactions. A clear example being Ms Sherrington incurring \$130,917.94 on travel expenses which she allocated to the PI expense code without adequate justification.
- Ms Sherrington failed to comply with good fiscal policy as she allowed expenditure to exceed the budget allocation in circumstances other than exceptional circumstances.
- No asset or portable and attractive items registers were maintained for items purchased in Darwin ostensibly for Milingimbi School.
- Ms Sherrington's actions with respect to finances and school funds were contrary to the *Education Act 2015* and the *Education Regulations 2015*, the *Financial Management Act*, PSEMA, and DOE policy.

Student attendance figures

- Ms Sherrington manipulated attendance figures at Milingimbi School to inflate future potential funding allocation for financial gain to the school and therefore seeking to increase funds available under her direct control to manage.

² We note that there are difficulties with section 115 of the *Education Act* regarding school councils and their exemption from compliance with certain acts, rules and regulations.

- The DOE Student Attendance Management System (SAMS) can be manipulated to falsify attendance numbers, resulting in additional funding from both the NT and Commonwealth Governments. Ms Sherrington altered and falsified Milingimbi School enrolment and attendance figures for the year 2019 in an attempt to secure significant additional funding of \$1.4 million (for the 2020 calendar year), contrary to 4.1 of the DOE Attendance Recording and Reporting guideline.
- Ms Sherrington's actions with respect to student attendance figures were contrary to the *Education Act 2015* and the *Education Regulations 2015*, PSEMA, and DOE policy.

Travel

- Ms Sherrington failed to comply with Clause 5.1.3 of the NTG Travel Policy as she did not complete movement requisitions on 18 occasions during 2018 and 2019, incurring \$193,079 in travel expenses with little justification for or authorisation of travel. Further, Ms Sherrington failed to comply with Clause 37 of the NTG Travel Policy as she did not acquit official travel undertaken on 13 and 14 March 2019 within 10 working days of her return to the workplace.
- Ms Sherrington failed to comply with Clause 5.1.3 of the NTG Travel Policy as she made excessive use of charter flights in lieu of commercially available flights. Specifically, Ms Sherrington incurred \$73,841.54 on charter flights between Darwin and Milingimbi during 2018 and 2019. During the same period, Ms Sherrington authorised commercial flights to the value of \$10,723.76.
- Ms Sherrington failed to maintain contemporaneous records for travel claimed as 'school business' to Darwin by herself and her family members, contrary to DOE policy.

School governance

- DOE has policies and guidelines in relation to the operation of school representative bodies. *Council of School Government Organisation (COGSO) Guidelines* are based on the department guidelines and were used as a reference for this investigation.
- Ms Sherrington failed to comply with guideline 4 of the *Council of School Government Organisation (COGSO) Guidelines* as Milingimbi school council failed to have the eight required meetings for the school years 2018 and 2019. In so doing, Ms Sherrington failed to provide leadership and exhibited controlling behaviour.
- Ms Sherrington failed to comply with guideline 3 of the *COGSO Guidelines* as Milingimbi school council failed to maintain proper and accurate minutes of Milingimbi

school council minutes. In so doing, Ms Sherrington failed to provide leadership and exhibited controlling behaviour.

Conflict of interest in employment and government employee housing allocation

- At different times, Ms Sherrington employed four immediate family members at Milingimbi School without declaring a conflict of interest on each occasion, and provided them with government employee housing, contrary to the DOE's Conflict of Interest, HR delegation and Government Employee Housing policies, the conditions of Executive Contract Officer contracts, and PSEMA. While it is difficult to quantify the full extent of the cost of this corrupt conduct as the behaviour appears to have been systemic and undetected for a significant period, it is in the order of \$270,000.³

33. The OICAC has received similar allegations of fraudulent student numbers and behaviour relating to schools and is concerned that this may be systemic. This investigation also finds that there is a real risk that this conduct may not be a singular incident related to Ms Sherrington and the Milingimbi School alone and that such conduct by principals and/or DOE staff may be systemic due to the current devolved schooling model, the autonomy of the principal and the ease with which records can be altered with little or no oversight.
34. Given the disadvantage of the NT's remote population, and the requirement for budget repair across NTG agencies, it is critical that the DOE determine whether this is a singular incident or systemic.

³ Family salaries: Ian McCulloch \$101,165.52 (2018), \$101,562.07 (2019); Liam Sherrington \$24,281.97 and \$11,724.64; Madeline McCulloch \$7821.98; Bryn McCulloch \$23,487.43. Although family members are regularly employed in remote communities, it remains necessary to declare conflicts of interest and seek approval from the school council or the Department as necessary.

Timeline of events

Date	Event
January 1999	Ms Sherrington employed as a teacher by DOE.
August 2009	Ms Sherrington appointed Principal, Timber Creek School.
July 2011	Ms Sherrington appointed Executive Contract Principal, Gapuwiyak School.
25 July 2015	Ms Sherrington appointed Acting Principal, Milingimbi School.
October 2015	Mr Ian McCulloch (partner) employed as Data Manager at Milingimbi School on casual contract.
2015 school year	Travel – Other school business – \$62,122.
2016 school year	Travel – Other school business – \$71,091.
24 April 2017	Ms Sherrington signs Executive Contract (ECO2).
2017 school year	Travel – Other school business – \$127,499.
2018 school year	Travel – Other school business – \$129,366.
4 March 2019	Mr Bryn McCulloch (son) employed as IT Support Officer at Milingimbi School.
September 2019	Mr Liam Sherrington (nephew) employed as School Attendance Officer at Milingimbi School on contract rate of \$500/day.
Sept-Dec 2019	Matters relating to Milingimbi School reported to the ICAC.
Nov-Dec 2019	Mr Liam Sherrington (nephew) re-employed as School Attendance Officer at Milingimbi School on contract rate of \$500/day.
Nov-Dec 2019	Ms Madeleine McCulloch (daughter) employed as Admin Officer at Milingimbi School.
2019 school year	Travel – Other school business – \$188,809 of which \$130,917 was allocated to Principal's Initiative expenditure.
2019 school year	Ms Sherrington and Mr McCulloch manipulated and falsified student attendance figures (from 50.2% to 89.2%) to attempt to secure an extra \$1.4 million in school funding.

Factual findings

35. The following narrative consists of facts found by me from sources properly available to me and OICAC investigations.

Background

36. This section deals with the relevant statutory law, policy and reports of the role and authority of the public officers and public bodies named in this report.
37. Milingimbi School, located on Yurri Island in Arnhem Land's Crocodile Islands, was established in 1951 and provides bilingual education in Yolngu Matha and English from preschool to Year 12. It services two Homeland Learning Centres, Langarra and Murrunga.
38. Students are overwhelmingly (98%) Aboriginal and from low socio-economic backgrounds. There is some movement of Milingimbi students to and from other schools in the region, principally Ramingining, Maningrida, Galiwin'ku and Gapuwiyak.
39. Milingimbi has a population of about 1500. The school's enrolment has been steady at 300-365 students over the past three years. Milingimbi School presently has a full time equivalent (FTE) teaching staff of 20 and an FTE non-teaching staff of 13.
40. The school's income is derived principally from the NT (62%) and Australian (35%) governments. The school's average annual income is \$7.5 million, which, depending on student numbers, is between \$17,000 and \$21,000 per student per annum.

Student Administration Management System (SAMS)

41. SAMS is a web-based database used by the DOE to manage student attendance. Milingimbi School uses the SAMS G2 version. SAMS captures student attendance in addition to students' addresses, parents/guardians and records some behavioural management details such as student suspension.
42. The DOE data warehouse extracts all data from SAMS at 6.00 pm every night. SAMS creates attendance statistics at midnight on Sundays based on the students and their current attendance pattern, and produces an attendance template for the week ahead. Each Monday, teachers log onto the SAMS template. Some teachers may use a hard copy attendance roll and later load details into SAMS.
43. Attendance is recorded in the morning and the afternoon and should be recorded within 30 minutes of the start of class, but there are exceptions for remote schools. In the case of

Milingimbi School, local procedures include a variation in times that data is collected. Schools are required to maintain timely and accurate attendance records:

“(4.1) student attendance must be recorded and entered into SAMS daily and for Primary school the attendance must be recorded twice a day, within 30 minutes of the start of each session (AM and PM).

...

In a homeland school or school with a teaching principal, the week’s attendance must be entered into SAMS by no later than close of business on the Friday of that week.”

Department of Education *Attendance Recording and Reporting* guideline

44. SAMS attendance records can be changed, but they must be accompanied by a note of the reason why a record has been changed and by whom. All changes can be tracked and audits will determine the date and time a record was altered and by whom.
45. I note that the NT Auditor-General has on two occasions⁴ audited SAMS and that the DOE has responded swiftly on each occasion.

Effective enrolment

46. The number of students actually attending a school, rather than the number of students enrolled, determines a school’s funding. A school’s funded student number is based on the previous year’s effective enrolment and any movement between the week 4, term 1 enrolment of the current and previous years. Effective enrolment combines both enrolment and attendance data to determine effective attendance, which is the number of students at a school in front of teachers.
47. Effective enrolment is calculated using the two non-consecutive highest weeks of attendance each term for the year and averaging that attendance to for the calendar year. The 2020 calculation would be determined by this formula:

2019 calendar year effective enrolment \times (2020 week 4, term 1 enrolment \div 2019 week 4, term 1 enrolment)

⁴ March 2017, pp 26-29; and August 2019, pp 54-60.

48. Effective enrolment is determined using data from SAMS. If the effective enrolment for the two non-consecutive highest weeks are artificially inflated, and is undetected, a school will receive more funding than its entitlement.

The principal

49. Ms Sherrington has been employed by the DOE since January 1999 when she commenced as a teacher. On 25 July 2015 she was appointed Acting Principal of Milingimbi School. On 24 April 2017 she signed an executive contract of employment at the Principal 2 level with remuneration of \$183,128 per annum plus accommodation. That contract had an expiry date of 24 July 2021.

50. The terms and conditions of Ms Sherrington's contract, recorded in the instrument itself, are short. However, by Clause 5, Terms and Conditions are imported from Determination 13 of 2011 (the Determination) of the Commissioner for Public Employment as amended from time to time. That Determination is made pursuant to section 34(4) of the PSEMA.

51. The Determination has the following relevant Clauses:

a) *Clause 4 –*

All employment instructions issued by the Commissioner under section 16 of the Act apply to an executive contract officer other than (numbers 5, 6 and 7).

b) *Clause 5 –*

The relevant provisions of PSEMA, Regulations and Employment Instructions are express terms and conditions of the contract of employment.

c) *Clause 111 –*

The Employer may at any time terminate a Contract by giving notice in writing to an Executive Contract Officer.

d) *Clause 113 –*

The Contract of an Executive Contract Officer may be terminated for one or more of the following reasons:

113.1 For committing any serious or persistent breach of the express or implied terms or conditions contained in a Contract;

113.2 For having seriously misbehaved, committed serious misconduct or serious neglect in the discharge of his or her duties.

e) *Clause 135 –*

Subject to paragraphs 3 and 4, an executive contract officer will familiarise himself or herself with and abide by any rules, regulations and or policies of the employer of the Northern Territory Public Sector as may be current from time to time.

52. By manipulating and falsifying student attendance records at the school, potential over-funding in the order of \$1.4 million might have been obtained for the 2020 school year. The DOE did not, however, accept or commit to this unjustified funding.
53. Ms Sherrington employed her partner, Mr Ian McCulloch, as a casual Data Manager at Milingimbi School where he restricted access to student enrolments to himself and Ms Sherrington.
54. Analysis of SAMS attendance data from Milingimbi School revealed that Ms Sherrington effected 2997 changes to student attendance in 2019. A further 1380 changes in the same year were carried out. These changes were from absent to present status, which contributed to an apparent increase in the attendance rate at Milingimbi School from an average 50.2% to 89.2% during a week in which school funding was calculated based on enrolments.

55. Below is an example, which is not exhaustive, of how Ms Sherrington manipulated the Milingimbi School budget to facilitate travel and expenditure to Darwin for herself and family members.

Year	Item	Budgeted amount	Actual expenditure
2015	Total Expenditure	\$1,469,551.00	\$1,542,303.91
	Travel Other School Business	\$36,000.00	\$62,122.09
	Bookpack / Bookroom supplies	\$0.00	\$0.00
	Total Curriculum	\$176,480.00	\$81,468.86
2016	Total Expenditure	\$1,788,793.00	\$2,384,289.05
	Travel Other School Business	\$63,012.00	\$71,091.05
	Bookpack / Bookroom supplies	\$0.00	\$5,299.45
	Total Curriculum	\$130,572.00	\$159,164.02
2017	Total Expenditure	\$1,890,847.00	\$1,908,505.46
	Travel Other School Business	\$4,578.00	\$127,499.28
	Bookpack / Bookroom supplies	\$36,216.00	\$5,944.50
	Total Curriculum	\$82,449.81	\$149,133.00
2018	Total Expenditure	\$1,962,241.00	\$1,743,408.94
	Travel Other School Business	\$59,295.00	\$129,366.14
	Bookpack / Bookroom supplies	\$34,276.00	\$893.72
	Total Curriculum	\$81,297.20	\$261,968.00
2019	Total Expenditure	\$1,690,609.00	\$1,651,373.91
	Travel Other School Business	\$34,404.00	\$188,809.47
	Bookpack / Bookroom supplies	\$24,732.00	\$0.00
	Total Curriculum	\$162,488.00	\$68,556.61

Table 2: Sample travel and expenditure items

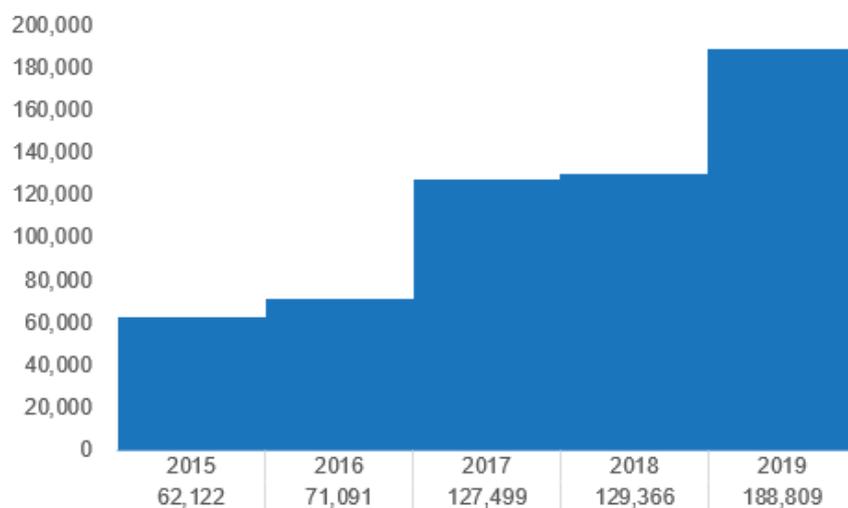


Table 3: Increasing expenditure in *travel – other school expenses* budget

56. This indicates that funds were diverted from educational resources intended for the poorest cohort of students in the country to funds for personal enrichment under the PI cost code. Ms Sherrington was not in the business of education; she was in the business of manipulating data and herding children to be at school on ‘*census*’ days⁵ to maximise funding from both the NT and Australian governments. Indeed, she employed her nephew, Mr Sherrington, as an attendance officer on two occasions in 2019 notwithstanding the fact that the school had a Remote School Attendance Strategy (RSAS) Coordinator. His job was to drive around the community in the school bus, collecting as many children as he could and deliver them to school.

MapApp

57. MapApp is an attendance recording application that was developed by Mr McCulloch while he was employed by the Milingimbi School Council. DOE paid the school \$50,716.80 plus GST for the 2018 development costs for MapApp. The funds went to Milingimbi school council.

58. This system takes student demographic information from SAMS for mobile use by school officers and RSAS officers. Information recorded on MapApp can then be used to manually change attendance codes in SAMS.

⁵ Week 4 of Term 1 each year.

59. MapApp was only ever trialled at Milingimbi School and does not appear to have been used any more extensively.

Enrolment and attendance manipulation

60. In 2019 DOE reviewed Milingimbi School's effective enrolment data and noticed there were large peaks in attendance followed by decreases. Twice a term, Milingimbi School had spikes of 80 to 100 students, which inflated the effective enrolment and resulted in an increase in funding.

61. Milingimbi School's 2019 effective enrolment was 266, calculated by adding the eight highest non-consecutive weeks and dividing by eight. When the figure was recalculated excluding the eight highest weeks and using the third and fourth highest weeks, the effective enrolment was 180. In dollar terms, this amounted to a potential difference of \$1,409,084 in the 2020 budget. In February 2020 DOE provided the information to ICAC for consideration in the joint investigation.

62. In November 2019, Ms Sherrington employed her nephew to boost attendance numbers for census weeks.

63. The Arnhem Land Progress Association (ALPA) employed an RSAS Coordinator, whose fortnightly reports to her line manager required attendance statistics. An effective working relationship between the RSAS Coordinator and the school was required, and it appeared there was a failure to cooperate on behalf of Ms Sherrington.

64. As referred to in paragraph 54 above; DOE audit of SAMS for Milingimbi School revealed that in 2019 Ms Sherrington altered 2997 records from '*absent*' to '*present*' and a further 1380 records were altered in the same manner. In all, there were 8000 attendance code change combinations in 2019. This had the effect of increasing the attendance rate from 50.2% to 89.2% during census weeks.

65. Partly as a result of the discrepancies in attendance, Ms Sherrington was asked to implement the *Power of Three* strategy. This was regarded by the DOE as one of the more appropriate methods of stabilising attendance and as having a permanent, positive effect. There was no evidence before me that Ms Sherrington attempted to implement this request.

66. Evidence was received that there are endemic problems with attendance at remote Aboriginal schools compared with urban schools.

Table 3: Average enrolment and attendance by remoteness and region, 2019^{1,2}

	Aboriginal		Non-Aboriginal		Total	
	Average Enrolment	Attendance Rate	Average Enrolment	Attendance Rate	Average Enrolment	Attendance Rate
Outer Regional						
Darwin Region	2 314	77.4%	9 456	89.5%	11 770	87.4%
Palmerston And Rural Region	1 895	77.3%	5 801	87.9%	7 696	85.1%
Outer Regional Total	4 209	77.3%	15 257	88.9%	19 466	86.5%
Remote						
Alice Springs Region	1 331	68.5%	1 794	85.8%	3 124	77.8%
Katherine Region	960	63.5%	1 069	82.5%	2 029	72.7%
Palmerston And Rural Region	511	57.4%	167	86.2%	678	64.8%
Remote Total	2 801	65.3%	3 030	84.6%	5 831	74.8%
Very Remote						
Alice Springs Region	1 149	50.7%	81	75.0%	1 230	52.3%
Arnhem Region	2 940	44.1%	753	87.8%	3 693	54.7%
Barkly Region	1 372	50.4%	168	81.4%	1 540	54.6%
Katherine Region	1 626	53.4%	71	69.5%	1 697	54.1%
Palmerston And Rural Region	456	61.3%	29	75.0%	485	62.1%
Very Remote Total	7 544	49.3%	1 102	84.8%	8 646	54.6%
NT Government						
NT Total	14 554	62.6%	19 389	88.1%	33 943	78.5%

1. The data in the above table excludes 30 enrolments from Top End School of Flexible Learning (Tivendale) and 20 enrolments for Centralian Senior College (Owen Springs). Both schools have an attendance rate of 100 per cent.

2. Calculations are based on precise data, due to rounding some totals may not correspond with the sum of separate figures.

67. Milingimbi School, therefore, was an exception to the average attendance rate for the Arnhem region of 44.1%, with a yearly average of close to 60% attendance in the records maintained by Ms Sherrington and Mr McCulloch.
68. It is also the case that Ms Sherrington went to extraordinary lengths to maximise student attendance during census weeks, but not for the rest of the school year. Inducements for students to attend during census weeks included but were not limited to:
- prizes and gifts for students for 'attendance'
 - employing her nephew, at a rate of \$500 per day to drive around the community, collect students and deliver them to school
 - personally driving around the community to encourage students to attend school
 - special sporting and disco activities outside general curricular learning.
69. These strategies were not sustainable and did little to improve attendance rates generally or education delivery to a cohort of students that represents Australia's most disadvantaged. Ms Sherrington's efforts were designed to maximise funding to the school rather than educational outcomes for its students.

Milingimbi school council

70. Section 103(1) of the *Education Act 2015* requires a school principal to establish a school representative body, in this case known as the Milingimbi school council, which is a body corporate pursuant to section 106(1)(a) of the Act. As principal, Ms Sherrington automatically holds a place on the school council, although Education Regulation 24(1) precludes her from chairing the council.
71. The primary roles of a school council are:
- to ensure that the school has good governance; and
 - that administration of the school is achieved by adherence to correct processes; and for the right purposes.
72. The DOE provides operating funds for councils. Operational tasks of the council include working with the principal and registrar to develop a school budget, and approval of that budget.
73. DOE and COGSO provide advice on how to manage school councils, and direction about the role councils play in the school community. COGSO guidelines are based on DOE school council guidelines. A school council is required to meet monthly during the school year or on at least eight occasions. The school council must keep minutes of meetings.
74. In the case of Milingimbi School, no school council minutes from 2018 record approval of the school budget. In 2019, no school council minutes record the discussion or any decisions in relation to financial matters. This is notwithstanding the following COGSO Guidelines:

“Sighting and accepting monthly financial statements

Councils must also receive and approve financial statements at every meeting. The Treasurer and/or the School Business Manager tell the School Council in these statements:

- *How much money has been received from all sources in the budget*
- *How much money has been spent in each area, in comparison to the budget.”*

COGSO *A how to guide for NT Government school councils* (2011), 9-10

75. This document also outlines a school council’s legal obligations. Given that it is an incorporated body it is required to have a constitution. Moreover, a school council must work within the terms of that constitution to meet its responsibilities as defined in the Act, including:
- ensuring its accounts are audited annually
 - keeping a record of school council business
 - correctly archiving those records.
76. Milingimbi school council minutes for the period in question are ambiguous in respect of their format and content. Multiple versions of minutes purporting to record the same school council meeting exist. For example, minutes of an annual general meeting of 19 February 2019 record that Person F was nominated as Chair of the council by Person I and that the meeting opened at 3.30 pm and closed at 5.00 pm. Those minutes recorded that the next general school council meeting was scheduled for 1 March 2019.
77. Another set of minutes records that an annual general meeting was held on 20 February 2019 at which Person F was nominated as Chair of the council by Person C and that the meeting commenced at 2.00 pm in the school staff room. Those minutes recorded that the next general school council meeting was scheduled for 27 February 2019.
78. A school email record, however, records that the general school council meeting scheduled for 27 February 2019 was postponed to 1 March 2019. Taken together, this indicates that Ms Sherrington wrote minutes retrospectively to comply with DOE requirements for copies of school council minutes; and requests by the auditor.
79. Purchase orders from Milingimbi School to the ALPA store for food for school council meetings indicate the following school council meeting dates:

Date	Order no	Meeting type
19 Feb 2019	2019128	AGM
20 Feb 2019	2019133	AGM
8 Mar 2019	2019204	General
3 May 2019	2019339	General
28 Aug 2019	2019555	General
2 Sep 2019	2019562	General
17 Oct 2019	2019646	General

Table 4: Food purchases for Milingimbi school council meetings

80. There are minutes for a meeting on 1 March 2019 that indicate a further meeting was scheduled for 8 March 2019; however, there are no minutes for a meeting on that date notwithstanding a purchase order for food. There is no record of a meeting on 3 May 2019, although it may have been that there was a meeting on 15 May 2019.
81. On the basis of the purchase orders, and assuming that only one annual general meeting was held, the school council met on six occasions during 2019, which fails to meet the departmental and COGSO requirement of a minimum of eight meetings per annum.
82. It is difficult, however, to determine whether and how often the Milingimbi school council met in 2019 or 2020 because minutes were produced to satisfy compliance requirements rather than to contemporaneously note the election, discussions and decisions of the school council.
83. The *Education Act 2015* requires that school councils adopt a model constitution published by the DOE⁶. That constitution makes clear that school councils must ensure the efficient, effective and appropriate use of school funds and resources in accordance with the governing principles of the:
- *Financial Management Act 1995*
 - Treasurer's Directions
 - *Audit Act 1995*
 - *Procurement Act 1995*
 - NTG Procurement Principles.
84. While a complying constitution was adopted, there was a failure to comply with it.
85. As noted above, it is difficult to determine whether the school council met at all in the period under question and any minutes that do exist fail to mention financial matters in any context, much less preparation and approval of an annual school budget.

⁶ This policy appears to be inconsistent with the exemptions in section 115 of the *Education Act* (see paragraph 32). Recommendations have been made to clarify these inconsistencies.

School governance

86. On 14 March 2017, the then Education Minister, the Honourable Eva Lawler MLA, delivered a Ministerial Statement to the Legislative Assembly outlining the government's approach to education. Among other things, the Minister said:

“For too long our remote Indigenous communities have had government telling them what to do. We are introducing a 10-year road map that will see Indigenous communities take control over housing, local government, health, looking after children, law and justice and education and training. We will introduce community-led schools so that Indigenous people have more control over decisions on education and training for their children.

...

Approaches to community-led schools will be based on local consultation and on guidelines developed by a local decision oversight board regarding how government will work and engage with communities. Implementation will be staged and based on a long-term plan that guides communities through a capacity-building framework.”

87. This model was led by the Department of the Chief Minister and Cabinet. It is unclear what capacity building work has been done in Milingimbi. However, it is clear that in theory, the school council and principal are responsible for managing a school's day-to-day budget and administration. COGSO receives NTG funding with which to provide training:

“...so people understand information around the budget and how they can be active in determining priorities within their school communities so they can deploy resources. They [COGSO] run two types of governance training: good governance decision making, running a council and board; and the second is around financial literacy.”

Department of Education former Chief Executive Vicki Baylis,
Estimates Committee, 21 June 2017

88. Over the past five years, COGSO has delivered governance training on the following basis⁷:

2019-20	2018-19	2017-18	2016-17	2015-16
74 schools	90 schools	81 schools	73 schools	42 schools

Table 5: COGSO Governance Training 2015-2020

89. It is apparent that the Milingimbi school council was not able to carry out its functions properly. This may be because of the council’s relationship with the principal, or because council members lack the training and literacy to competently deal with governance arrangements and financial documentation. It is clear that the council did not approve some staff employed on the council’s behalf. It is clear that there was manipulation or misrepresentation of council meetings by Ms Sherrington in respect of minutes, budget approvals and any discussion of draft budgets.
90. Failure to involve an effective school council in the affairs and governance of the school gives rise to a principal having autocratic control of the school.

Travel

91. In 2018 and 2019, the bulk of travel expenses were allocated to the PI cost code (see paragraphs 105 and following). In 2019, travel expenditure allocated to the PI cost code was \$130,917.94. The DOE practice is that travel must be made through the NTG online Travel Request Information Processing System (TRIPS), which requires the reason and justification for travel. A request logged into TRIPS is automatically directed to the appropriate delegate for authorisation and approval. In Ms Sherrington’s case, the delegate was the Senior Director School Improvement and Leadership, DOE.

⁷ COGSO annual reports.

92. TRIPS enables the DOE to scrutinise and approve employee travel when it is paid for by either the department or a school council and can be interrogated for compliance or financial audit purposes.

Officer travelling	Funding source	Within scope	DOE travel
NTPS employee	DOE	Yes	
NTPS employee	School Council	Yes	
School Council employee	DOE	Yes	
School Council employee	School Council	No	

Table 6: Department of Education travel policy inclusions

93. Ms Sherrington considered herself exempt from compliance with the DOE policy on the basis that there was no obvious NTG cost code and the travel could not be booked by the NTG's preferred travel provider, QBT. Ms Sherrington was erroneously of the view that TRIPS entries had to be made six weeks prior to the travel being undertaken.
94. For example, Ms Sherrington travelled to Darwin on a regular commercial flight with Fly Tiwi on 12 February 2019 at a cost of \$582.54. Her return flight, however, was a charter with Territory Air Services at a cost of \$1900. The travel justification in TRIPS declared that the return flight would be with commercial carrier Fly Tiwi. Ms Sherrington was accompanied on the return flight by an employee of the Milingimbi School Council between 23 January and 19 February 2019. This travel was not acquitted in TRIPS until July 2019 notwithstanding DOE policy that travel must be acquitted before any further travel can be undertaken.
95. Of the 28 identified official travel trips made by Ms Sherrington during 2018 and 2019, 18 failed to comply with the DOE travel policy. This travel amounted to \$193,079, by-passed TRIPS, was not authorised at all or was not properly authorised, was allocated to the PI cost code and was charged to the Milingimbi school council.
96. DOE policy requires that commercial flights be used for official travel and that charter flights are not to be used unless commercial flights are unavailable and the school principal has to travel for urgent official reasons. Notwithstanding DOE policy, Ms Sherrington used charter travel on a regular basis—without justification or authorisation—for herself and other staff members and/or residents of Milingimbi for whom there was no authorisation. In most instances, the names of accompanying passengers did not appear on purchase orders but did appear on invoices from the charter operator. In cases where non-DOE or private passengers share a charter flight, DOE policy requires that their percentage of the cost of the charter be recovered. There is no evidence of compliance with this part of the policy.

Recruitment, employment and conflict of interest

97. The DOE *Conflict of Interest Policy FAQ* at page 1 states:

“Purchasing goods for your school, recruiting or having a family member on staff, engaging a contractor who is a friend or relative, being offered gifts, and undertaking outside work are all common scenarios where a conflict of interest may arise.”

98. While I understand that remote schools often employ multiple members of the same family, this warrants strict adherence to conflict of interest policies and procedures.

99. The DOE *Disclosure of Interest Declaration* states that staff should complete a new declaration on an annual basis or immediately upon any change in circumstances that may give rise to a new potential, apparent or real conflict between personal interests and official duties, within two business days of the matter arising.

100. Further, the COGSO guidelines refers to a conflict of interest and state:

“If you have declared your 'conflict of interest' you cannot be part of any discussion or vote on the contract/s or arrangement/s.”

101. Ms Sherrington employed the following family members in various positions with the Milingimbi school council:

Ian McCulloch, her partner, employed as data manager at the Administrative Officer 6 level. Mr McCulloch was employed on a casual contract at the rate of \$51.53 per hour, commencing in October 2015.

Mr McCulloch submitted time sheets variously for 10 hours per day and, later, seven hours per day. His actual hours of work appear to be not more than a few hours per day. MapApp was later sold to the DOE⁸ by Mr McCulloch for \$50,716.80 plus GST. The funds went to Milingimbi school council.

Bryn McCulloch, her son, employed as the Information Technology Support Officer at 96 per cent of the salary rate for an Administrative Officer 2 level. This was a contract position commencing on 4 March 2019.

⁸ Department of Education's purchase was made using federal funds.

Mr McCulloch was employed by both the Milingimbi school council and the DOE at various times. Ms Sherrington did not seek the approval of the school council about his employment by that council. Moreover, his information technology skills were limited.

Liam Sherrington, her nephew, employed as an Attendance Officer between 15-21 September 2019 and 10 November and 13 December 2019. He was engaged in contract work at rates determined by Ms Sherrington.

Mr Sherrington was employed at a contractor rate of \$500 per day. His time sheets indicate that he regularly worked 8.5 hours per day, although this is disputed. A locally recruited Attendance Officer performing the same duties was paid \$150 per day for five hours' work. The rationale behind his employment is difficult to discern given that the role assigned to him is precisely the role of the RSAS team.

Milingimbi school council minutes for 17 October 2019, prepared by Ms Sherrington for the school auditor, indicate that Ms Sherrington moved a motion for the council to contract Mr Sherrington as an Attendance Officer in Term 4 of 2019. The minutes do not indicate either a vote or the motion being carried, nor do they indicate Ms Sherrington's declaration of a conflict of interest or an indication that she would abstain from voting on the basis of that conflict of interest.

To facilitate Mr Sherrington's employment, the school council paid for flights between Brisbane and Milingimbi, and for his accommodation. Both flights and accommodation were allocated to the PI cost code. The terms of his employment did not entitle Mr Sherrington to DOE housing, yet he resided at a DOE property known as 225/1. There is no evidence of the school council approving this expenditure.

Madeleine McCulloch, her daughter, employed as an Administration Officer between November and 23 December 2019.

There is no record that Ms McCulloch's employment was ever discussed by the Milingimbi school council, nor are there any records of the council being consulted or having approved her employment.

102. There is no evidence of a conflict of interest declaration about any period of employment of any family member. Ms Sherrington ignored her obligations in relation to the school council, and in relation to the employment of relatives.
103. There is no evidence that any of the abovementioned positions were advertised or that recruitment was open to anyone in the Milingimbi community.

104. Given that Ms Sherrington has been a principal in remote schools since 2011, she should have been well acquainted with DOE policies and procedures. It is clear that Ms Sherrington breached her responsibility to comply with these policies and procedures.

Principal's Initiative (PI) cost code

105. This cost code has been used at Milingimbi School and other NT schools for several years. While the PI code is not encouraged, the DOE has no direction or policy to avoid it. The intention of the PI code was to cover unexpected expenses arising during the year and to give the principal capacity to address unforeseen needs.

106. When developing school budgets, the principal decides on the allocation of funds to various cost codes. In general terms, funds allocated to the PI code should be limited because funding allocated to PI reduces the funds available to strategic operational areas. Generously allocating funds to the PI limits the DOE's ability to measure school performance because it reduces capacity to understand the link between expenditure and the Annual School Improvement Plan.

107. In late 2017 Ms Sherrington prepared a draft school budget in conjunction with the externally contracted school bookkeeper/business manager for the 2018 school year. Final approval of the draft budget was given by the principal and the school council. Two PI allocations were made for that school year as detailed below.

108. Reference 18S-A4 of \$49,214.00 was determined by Ms Sherrington. Actual expenses attributed to this code during the 2018 school year were \$144,821.09 – an overspend of \$95,607.09.

109. Reference 18S-ADD of \$35,000.00 was allocated for an IT strategy. \$27,205.19 was transferred to cover the overspend incurred on 18SA4. An additional \$68,402.00 was transferred from other strategic operational expenditure areas to cover the balance of the overspend.

110. The table below is a sample of PI spending from the Milingimbi School 2018 Job Budget Analysis:

Purpose	Cost
Travel / Accommodation – Professional Development	\$10,674.25
Travel / Accommodation – other school business	\$51,908.73
Gifts / Donations	\$12,836.82
Food / Drinks / Hospitality	\$6,726.75
NCA Equipment	\$5,821.09

Table 7: PI spending from the 2018 Job Budget Analysis

111. The table below is an example of how Ms Sherrington managed the 2018 PI code at Milingimbi School:

Date	Purchase Order	Supplier	Purpose	Cost	Cost Code
22/01/2018	2018068	Fly Tiwi	Flight: Milingimbi-Darwin	\$582.00	Not entered
22/01/2018	2018025	Mantra	Accommodation: Sherrington	\$119.00	PI
22/01/2018	2018057	Darwin Radio Taxis	City to Darwin City	\$24.80	PI
23/1/2018-26/1/2018	2018024	Mantra	Accommodation: 3 BR x 3 Nights	\$909.60	PI
23/01/2018-26/01/2018	2018067	Hertz	Car Hire: Airport to Airport	\$393.16	PI
23/01/2018	2018026	Hertz	Car Hire: Airport to Airport	\$226.68	PI
23/01/2018	2018056	Macair	Taxi: City-Jingili	\$25.30	PI
26/01/2018	2018051	Coles	Fuel: Hire Car	\$49.11	PI
26/01/2018	2018027	Territory Air Services	Charter Flight. Darwin-Milingimbi-Darwin Jenny Sherrington (DRW) Assistant Principal (DRW) Milingimbi teacher (DRW) Person H (DRW) Person A (MGB) Person J (MGB) Person B (MGB) Person E (MGB) Person D (MGB)	\$3,500	PI

Table 8: 2018 PI Code use at Milingimbi School

112. This travel, according to Ms Sherrington, was undertaken by herself, the Assistant Principal and a senior teacher for the purpose of meeting new recruits. The identity of Person H could not be established, nor could their connection to Milingimbi School.

113. The table below lists the purchases made during the same time period and allocated to other cost codes:

Date	Purchase Order	Supplier	Purpose	Cost	Cost Code
23/01/2018	2018065	Prezzy Pad	Squeeze Balls	\$20.85	Resources
24/01/2018	Not Located	Officeworks	Staff Handbook	\$601.19	Not Located
24/01/2018	2018055	JB HiFi	Camera	\$948.00	Property Management
24/01/2018	2018048	Good Guys	Fryer/popcorn maker	\$98.95	Resources
25/01/2018	2018066	Big W	Kitchen Items	\$80.15	Resources
25/01/2018	2018054	Super Toy World	Toys and Games	\$861.70	Resources

Table 9: 2018 Miscellaneous Purchases

114. In late 2018, Ms Sherrington prepared a draft school budget in conjunction with the externally contracted school bookkeeper/business manager for the 2019 school year. Final approval of the draft budget should be given by the principal and the school council. The PI allocation on this occasion was \$38,024.00 and calculated by allocating the leftover amount after other budget areas had been set. Actual expenses attributed to this code during 2019 were \$232,976.78 – an overspend of \$194,952.78. An additional \$151,622.39 was redirected from strategic operational accounts to cover some of the remaining overspend, after which a further \$43,330.39 was transferred from school cash reserves.

115. The table below represents a sample of PI spending from the Milingimbi School 2019 Job Budget Analysis:

Purpose	Cost
Travel / Accommodation – Professional Development	\$2,022.13
Travel / Accommodation – other school business	\$130,917.94
Gifts / Donations	\$7,504.06
Food / Drinks / Hospitality	\$5,296.90
NCA Equipment	\$12,747.23
Classroom Furniture	\$13,404.75
Criminal History / Other Security Checks	\$13,272.00

Table 10: PI spending from the 2019 Job Budget Analysis

116. The table below is an example of how Ms Sherrington managed the 2019 PI code at Milingimbi School:

Date	Purchase Order	Supplier	Purpose	Cost	Cost Code
18/09/2019	2019605	Territory Air Services	Charter Flight, 20/09 and 22/09	\$7,000	PI
17/09/2019	2019610	Avis	Car Hire, 20-22/09	\$133.35	PI
19/09/2019	2019608	Mantra	Accommodation: 20-22/09	\$652.00	PI

Table 11: 2019 PI Code use at Milingimbi School

117. Records indicate that the passengers involved in this travel were Ms Sherrington, Mr Sherrington and Bryn McCulloch. This was during the course of Mr Sherrington's five-day employment by Milingimbi school council. Ms Sherrington's explanation for this trip was a meeting with the Department of Prime Minister and Cabinet about MapApp and that Mr Sherrington was at that meeting because of his knowledge of MapApp prior to his departure to Brisbane on 21 September 2019. Note that Mr Sherrington was, at the time, employed as a school attendance officer yet spent four of the five days of his tenure at least 440 km away from the Milingimbi School. Ms Sherrington explained that Mr McCulloch's inclusion on the trip was because he was returning to Canberra. Records, however, indicate that he was on the return flight to Milingimbi. The explanation for other passengers on the flight was that they were teaching staff who attended Darwin for professional development. All expenses for this travel were allocated against the PI code.

School budgets

118. DOE policy is that school budgets should align resources with the annual School Improvement Plan to maximise student learning.
119. Travel to an urban centre for prizes or rewards should be allocated to the cost code of the school program or initiative set down in the School Improvement Plan.
120. The school business manager is to report movement between funding allocations to the school council for its consideration and those reports should be reflected in the council minutes, which would also indicate PI overspending and subsequent transfers of funds from strategic operational codes to the PI code.
121. A well-functioning school council should question the school budget in general, including the annual PI allocation – particularly when it exceeds \$10,000. Below is a sample of NT school spending attributed to the PI code:

School	2018		2019	
	Budget	Spent	Budget	Spent
Larapinta Primary School	\$800	\$637	\$2000	\$674
Katherine South Primary	\$200	\$200	\$850	\$850
Ngukurr School	Nil	Nil	Nil	Nil
Braitling Primary School	\$3,000	\$3,455	Nil	Nil
Alawa Primary School	\$1,000	\$1,186	\$2,500	\$1,849
Gunbalanya School	\$10,000	\$8,944	\$15,000	\$10,233

Table 12: Sample of correct PI code use

122. There is no official DOE policy or documentation specifically relating to the use of a PI as a cost code or item. This is a considerable risk for the DOE given what has happened in Ms Sherrington's case. However, the School Resource and Governance Policy deals with good governance, transparency and accountability about the expenditure of public money.
123. The governing principles from the DOE's *Accountability and Performance Improvement Framework* require that schools apply their resources in a targeted manner to deliver quality education programs that meet the learning and wellbeing needs of all students. To achieve this, schools must ensure that their governance arrangements include school-wide policies, practices and programs to support informed and strategic resource decision making, planning and communication with the school community.
124. The *Financial Management Act* provides the legal foundation for the NTG's management of public money and the proper discharge of its powers and responsibilities. It establishes the

accounting structures for receipting, recording and reporting of public money, and clear and precise accountability requirements.

125. Ms Sherrington's use of the PI code diverted money away from the strategic operational needs of the school, the learning needs of the students, the delivery of education by the teachers, and served to subvert policies and procedures for prudent budgetary practice. The PI cost code was not designed to be a personal discretionary fund for the principal, as is evident from the comparative table above.

Response on behalf of Ms Sherrington to adverse material in draft report

126. As earlier noted, Ms Sherrington must be given a reasonable opportunity to respond to the adverse material if the ICAC proposes to make an adverse finding. That opportunity was given to Ms Sherrington and a response provided. In the preamble letter of Ms Sherrington's legal representative it is suggested, inter alia, as follows:

"Ms Sherrington had a cogent and exculpatory explanation for each and every allegation, which explanations she gave in great detail in her examination. Her answers are all available to be read in the transcript, and in her documents supplied at the end of her examination. However, the contents of the draft report confirm she has simply not been heard."

127. On the contrary, Ms Sherrington's presentation and answers given during her examination justified in my view the findings made critical of her performance as principal of Milingimbi School. Significantly, Ms Sherrington gave evidence on five days, the two components of which were separated by two months. She was given the opportunity to present additional material and written submissions during that interval, and on a day-to-day basis during her examination. She availed herself of those opportunities and consideration was, and has, been given to that material, and to the further material contained in her response to the draft report.

128. At all times great care was taken to consider each of the matters raised by Ms Sherrington, just as great care has been given to consider the entirety of the response provided by her and/or on her behalf.

129. The difficulty for Ms Sherrington is that in carefully weighing her explanations against the weight of the evidence, her denials simply cannot be believed. Ms Sherrington has raised the significant challenges in running a remote school like Milingimbi. This is accepted. It is also clear however that there were numerous policies and procedures in place to assist principals, like Ms Sherrington, in remote schools to address such challenges.

130. The records show that Ms Sherrington did not take advantage of these policies and procedures and did not alert anyone to any specific challenges being faced which she believed she could not address or were "overwhelming" or beyond her capacity as an experienced teacher and principal in remote schools.

131. To the contrary it appears from those records that Ms Sherrington attempted at all times to convey herself as in control, whilst also attempting to obtain as much funding as she could in circumstances that would have been obvious to her that she was not entitled.

132. In summary, in her response Ms Sherrington sought to raise issues in relation to the “*incredibly challenging environment ... in which she has been operating*” making reference to:

- lack of a permanent police presence
- substance abuse
- frequent community unrest and fighting
- attendance of NT Territory Response Group on multiple occasions
- student cohort with high percentage affected by trauma and associated violent and aggressive behaviours.
- higher than average amount of 3rd Tier Special Needs students.

133. In addition, Ms Sherrington raises that as Principal she “*continually worked with Health Services, Territory Families and Police on serious child protection problems, management of health conditions of students and criminal activity after hours*”.

134. With reference to these matters, it is an unfortunate, yet undeniable fact that these circumstances are a reality for many remote schools. They do not however provide any explanation (or excuse) for Ms Sherrington’s conduct.

135. It is also raised within that response that as principal Ms Sherrington was responsible for setting up “*curriculum, professional learning, school policies and supervision of planning, assessment and reporting across the school as well as set up the organisational structure and daily operations*”. It is again noted that this is part of the responsibilities of any principal and provides no explanation for the conduct found to have been engaged in by Ms Sherrington.

136. Ms Sherrington’s response goes on to refer to:

- her and the leadership team’s responsibility for student behaviour management
- creating strategies for encouraging school attendance
- the fact that the majority of the staff cohort consisted of Yolgnu staff for whom English was a second language
- requirement to manage such staff including Yolngu staff and others
- engagement during recreation leave to recruit with an external agency as not all recruiting could be done effectively through DOE
- run down school infrastructure with daily issues to report
- development of relationship with families and engaging in community events and other service providers
- taking of classes when relief staff could not be sourced
- logistic management for the school

- housing management for staff
- working on weekends
- emergency management
- improvement of classroom environments
- building staff efficacy
- staying “*on top of*” DOE policies
- management of emails
- forming partnerships with other principals.

137. The large majority of these matters formed part of the extensive evidence given by Ms Sherrington during the course of the investigation. Again, whilst many of these circumstances may have existed and at varying levels from time to time, none proffer an explanation, nor an excuse for the conduct engaged in by Ms Sherrington. Moreover, it is the finding of this investigation that such roles relied upon by Ms Sherrington as being required to be performed are the same roles that are required to be performed by any principal in a remote school and in most cases, any principal of any school.

138. Ms Sherrington also placed reliance on not being “*trained as a financial manager*”. It is to be noted that to undertake the conduct that she engaged in did not require any financial training and is not relevant to the matters considered in this investigation.

139. Further Ms Sherrington alleged that the “*school passed all external and internal audits and she was not previously (to the ICAC examination) told to change her ways of doing things by the accountant or DOE on the vast majority of practices for which she has not been criticised*”.

140. What must also be kept in mind in these findings is that failure by the DOE’s financial controls to prevent, detect and/or address Ms Sherrington’s conduct is also a matter raised as a real risk and one addressed in this report as a matter that requires further consideration by the DOE.

141. In her response, Ms Sherrington contends that there has been no “*latitude*” given for concessions made by the Director, School Financial Improvement and Support, DOE, in her evidence that principals in remote schools are “*disadvantaged by not having a NT government employed business manager*” and “*as a result NT government governance expectations are not as obvious to remote school principals*”.

142. It is further contended by Ms Sherrington that she has been “*harangued*” over “*minute expenditures*” that “*were without exception expenditures for school purposes*”. Such an assertion, like the evidence given by Ms Sherrington to such effect is not accepted nor is it plausible when the evidence as a whole is considered.

143. Ms Sherrington's response further seeks to explain that what has occurred is that instead of her engaging in corrupt conduct she has effectively been undermined by "*one toxic balanda staff member*" through "*continual complaints and relentless defamatory statements*" which have been "*clearly bought into*" by "*a certain executive or executives within DOE*" and that such conduct is "*an indefensible act by whoever it was*".
144. Such a response is very much in line with the general tenor of the evidence given by Ms Sherrington during the investigation which is simply not accepted and is found to be a clear attempt by her to obfuscate rather than provide a clear and cogent explanation for her conduct.
145. It is however important to note that evidence from what Ms Sherrington describes throughout as *toxic* sources was excluded from consideration in forming the views expressed in this report. It is accepted that emotional issues were at play at the school at the relevant time and opinions, on both sides, were necessarily affected thereby.
146. It is also accepted that remote schools in the NT are severely disadvantaged in almost every way, and that the job of the principal, and other members of the teaching staff, is fraught with difficulties.
147. Nevertheless, in my view, Ms Sherrington's performance as principal fell short of the necessary standard in the manner described in these findings.
148. As earlier quoted in these findings, Ms Sherrington contends that she "*had a cogent and exculpatory explanation for each and every allegation*" and that these "*are all available to be read in the transcript and in her documents supplied at the end of her examination*" however she "*simply has not been heard*".
149. It is important to make clear to Ms Sherrington, and any person who may read this report or appear before the ICAC, that each and every piece of evidence before the ICAC in this investigation has been carefully considered. Ms Sherrington's contention that her explanations were "*cogent and exculpatory*" is fanciful. Much of her evidence provided no such explanation and in fact was not believable and therefore not accepted.
150. It is noted however that Ms Sherrington, in her responses, evidence before the ICAC and other written submissions has denied each and every allegation made against her. The findings which follow, made on the balance of probabilities, have taken those denials into account.

Matters for DOE's consideration

151. Milingimbi School's internal financial controls and the DOE's financial controls failed to detect and address Ms Sherrington's conduct over the four years between 2015 and 2019. While the operations of the school are independently audited pursuant to the *Education Act*, the department noted during its natural justice process that the preparation and audit of financial statements could be strengthened to support stronger controls for public funds, as current audits do not check compliance with departmental policies. DOE notes the varying conditions under which business managers are employed and the potential risks associated with the external contracting arrangements at a school level.
152. The Milingimbi school council was ill-equipped to prevent, detect and act upon Ms Sherrington's conduct.
153. As a senior public officer entrusted with the education of children in the community of Milingimbi, Ms Sherrington was responsible for ensuring she acted with integrity and complying with PSEMA and other legislation and policies. She failed to do so.
154. This report should serve as a resource for school principals, business managers and councils to identify and prioritise governance and management training needs, and to report these to the DOE so that a program of training can be tailored and rolled out by appropriately qualified training providers.
155. Devolution of governance arrangements in NT public schools is problematic. This is not a problem unique to the NT and has been identified as a serious issue in the Victorian public education sector.⁹ The Milingimbi case highlights the need for principals to also carry the responsibility of what is effectively the chief executive of a small business, and to exercise financial and management functions in addition to the traditional education functions.
156. While principals have reporting responsibilities to the DOE and to parents through the school council, it is doubtful that the wider school community was engaged with the school or had the capacity to interpret any information that was disseminated. This is a serious shortcoming in the present NT education delivery model.

⁹ See, for example, the Victorian Ombudsman's report to Parliament and the Victorian Ombudsman, *Investigation of three protected disclosure complaints regarding Bendigo South East College* (2018).

157. Ms Sherrington took advantage of the school council's lack of experience and governance literacy. DOE also noted that the school representative body may recruit and employ staff on terms and conditions in accordance with the *Fair Work Act 2009* which creates workplace inequities and complex employment arrangements across a school with different recruitment processes and administrative arrangements.
158. DOE has been responsive to and cooperative with the ICAC.
159. There is significant risk in the present devolved model that DOE and NTG should consider, particularly with regard to school funding by the NT and Commonwealth governments, and employment of staff by school councils.
160. The risks in the devolved education model should be considered by the NTG in relation to other areas proposed to be devolved (such as housing and health) under the Local Decision Making policy.

Findings of improper conduct

161. I repeat and rely upon the findings which constitute the summary of the report at pages 13, 14, 15 and 16 of this report.

162. On the balance of probabilities I make findings of corrupt conduct in respect of Ms Sherrington.

163. The corrupt conduct is pursuant to section 10(2) of the ICAC Act in that it is conduct:

- That constitutes reasonable grounds for dismissing or terminating the services of a public officer pursuant to the terms of the contract set out in paragraphs 49 to 51 (inclusive);
- That is connected to public affairs in that the conduct occurred in the course of Ms Sherrington's employment pursuant to an executive contract made 24 April 2017, which contract commenced on 25 July 2017;
- That conduct involving or resulting in the following:
 - i. Dishonesty;
 - ii. Failing to manage adequately an actual or perceived conflict of interest;
 - iii. A breach of public trust;
 - iv. The illegal, unauthorised or otherwise inappropriate performance of official functions;
 - v. Inappropriate conduct in relation to official information;
 - vi. An adverse effect on the honest impartial or effective performance of official functions by a public officer.

Corruption prevention

164. SAMS was implemented across the NT in 2017 and significantly upgraded in 2018. DOE centrally hosts and manages the system, although application access is managed under a devolved model whereby each school has responsibility for granting, maintaining and removing access to its own SAMS data.
165. The Auditor-General has, on two occasions, audited SAMS. The first audit was reported in March 2017 and the second in August 2019. The first report found that:

“There is no structured approach or guidance provided to schools for assigning appropriate roles and responsibilities to key users.

...

There also exists the ability to create user accounts within SAMS which are effectively generic accounts and thus are able to be used by multiple members of staff.”¹⁰

Moreover, the report found that:

“A school principal ultimately authorises each user’s level of access to data related to their school. As a result there is no standardisation in the assignment of roles and responsibilities between schools.”¹¹

166. The report identified a further weakness in the SAMS package relating to passwords, specifically that the department’s password complexity requirements did not apply to SAMS passwords. That is, a combination of uppercase, numeric and special characters were not required (p 28).
167. It is noted that the DOE undertook to address the concerns raised in this Auditor-General’s report and, indeed, immediately took action in respect of findings that are unrelated to this matter but involved disaster recovery capacity.

¹⁰ Report to the Legislative Assembly, March 2017, p 26.

¹¹ Report to the Legislative Assembly, March 2017, p 26.

The Auditor-General's 2019 report revisited the findings of 2017 and reported:

“Based on the scope of testing performed, except for the matters noted in this report, key general computer controls appear to have been implemented within the SAMS computer environment.”

Report to the Legislative Assembly, August 2019, p 54

168. The exceptions cited by the Auditor-General reflect concerns raised in her 2017 report, and gave rise to the following observations:

- *"A formal process for user creation and revocation has not been defined.*
- *There is inadequate guidance provided to schools explaining how user access should be governed, including formal processes for user creation, periodic verification and revocation.*
- *790 SAMS administrator accounts were identified within the system across 155 schools, which appears excessive.*
- *A number of user accounts of terminated staff members and teachers have not been disabled in SAMS immediately after termination of their employment and there is no central process to ratify the validity of these users.*
- *A user access review process to perform periodic user access certification for privileged and standard user accounts (including appropriateness of user privileges) is not in place.*

In the absence of formalised processes for user creation and revocation, there is an increased risk of unauthorised users being created in the system or obsolete user access remaining in the system. Unauthorised user access may be used to gain inappropriate access to student details or used to perform inappropriate changes to enrolment and attendance details.

The report then lists a series of vulnerabilities and risks.

Report to the Legislative Assembly, August 2019, p 56-59

169. The Auditor-General made a range of further recommendations to address those risks.

Recommendations

It is recommended that DOE:

1. Urgently review its approach to administration arrangements in relation to school autonomy, budgets and the School Resourcing Model, and put in place greater guidance and accountability measures and stronger scrutiny of funding provided to government schools.

The review of administration arrangements should include but not be limited to:

- the principal initiative code and guidance
- cash and credit funding components
- discretionary expenditure
- travel
- gifts, benefits and hospitality
- recruitment
- use of funds as outlined in the Education Act
- conflict of interest

The review should include in its remit the development of policy and guidelines, communication, training and implementation.

2. Publish a finance manual for NTG schools and consider best practice from other jurisdictions including Victoria, when developing this.
3. Audit and review the use of the principal initiative cost code across schools to determine whether improper conduct has occurred, is occurring or is at risk of occurring.
4. That the current complex arrangements established under the Education Act regarding the role of the principal and school representative bodies and exemptions from certain Acts, be reviewed, particularly section 115 of the Act.
5. Review the recruitment process and job description for principals. The job description review should include greater clarity and description of principals' accountabilities and the authorising environment, including but not limited to references to the Education Act and regulations, PSEMA, the NTPS code of conduct, and other relevant legislation and frameworks. If required, the job description should be more than one page to ensure a comprehensive description of responsibilities. Recruitment processes should include clear guidance for panel members on the new job description and suggested questions to be asked of referees against key selection criteria.

6. Review the process used to justify and approve travel and related expenditure for non-operational purposes, strengthen guidance if required, and increase spot checks for compliance with policies and procedures.
7. Establish conflict of interest and gifts, benefits and hospitality frameworks, policies, guidance and registers at a local school level to record, declare, manage and review conflicts of interest. This framework should include system (departmental) oversight, mandatory training for all school leaders (principals, assistant principals, business managers), those with delegation, and school representative bodies on declaring and managing conflicts of interest. Training should include advice on how to transparently manage conflicts of interest and gifts, benefits and hospitality in day to day business as well as recruitment.
8. Develop an induction program and handbook for school representative bodies. This should be included but not limited to a yearly acknowledgement of obligation of members, merit selection training, financial policies and procedures applicable to their roles. It should include advice on training and support available from the department and COGSO, and incorporate any new policy framework and advice developed as a result of this report. The induction and training should be culturally appropriate and relevant to the local context and draw from case studies of what is working well in schools and how this can be adapted more broadly.
9. Request from COGSO, as part of its grant management, a breakdown in annual governance training delivered to all schools in the NT, categories by region, stage of schools and remoteness. The department should also request how COGSO is ensuring that their training is culturally appropriate and tailored to local contexts.
10. Review the Act and guidelines regarding employee and contractors of the school representative body, including but not limited to the Fair Work Act, workplace inequalities and appropriate record keeping.
11. Strengthen the audit of school councils.
12. Develop and implement a compliance review for all schools within the NT, taking into consideration the recommendations above.
13. Introduce system-level controls for SAMS, including reviewing access and security, passwords, exception reporting and further audit and compliance checks to identify anomalies, on a regular basis.

That the department reinforce to all staff SAMS users the requirement on entering student enrolment and attendance data. This should include advice about false entry or manipulation of figures and potential ramifications under the ICAC Act or other relevant Acts.

That the department seek an update on implementation of the Auditor-Generals recommendations into SAMS, which may include an interagency working group to identify opportunities to further strengthen controls and audits.

The OICAC notes that there is scoping underway for replacement of SAMS with a contemporary student management system that is fit for purpose and better able to detect anomalies automatically. Given the risks associated with the current system and challenges of oversight of a geographically spread, remote school system, OICAC recommends that the new system be scoped and adequately resources as a priority.

14. Audit and review school attendance figures to determine whether fraudulent reporting of attendance in an attempt to gain increased funding is systemic or at risk of being systemic.
15. Review the appropriateness of the current outsourced business manager and bookkeeper arrangements, as to whether they should be bound by the same rules as department-employed business managers.
16. Undertake a review of all occupants in government employee housing allocated to the department to verify tenant entitlement.

The OICAC notes that DOE is currently developing an integrity framework, and understands that the above recommendations will be considered as part of that work to strengthen culture within the department and schools.

Appendix 1: Response by and on behalf on Jennifer Sherrington

A response was provided by Ms Sherrington to the adverse material proposed to be relied upon to make these findings. That response was provided by way of a five page covering letter from her lawyer dated 9 June 2021 described as “*preliminary remarks to that response*”.

What thereafter followed was a document entitled “*Response to ICAC Report: The Principal’s Initiative*” which was 116 pages in length and attached 13 Annexures which were voluminous. This Appendix therefore refers only to those matters referred to as “*Response*”.

All of the material provided however has been read carefully and considered, along with all of the evidence given by Ms Sherrington.

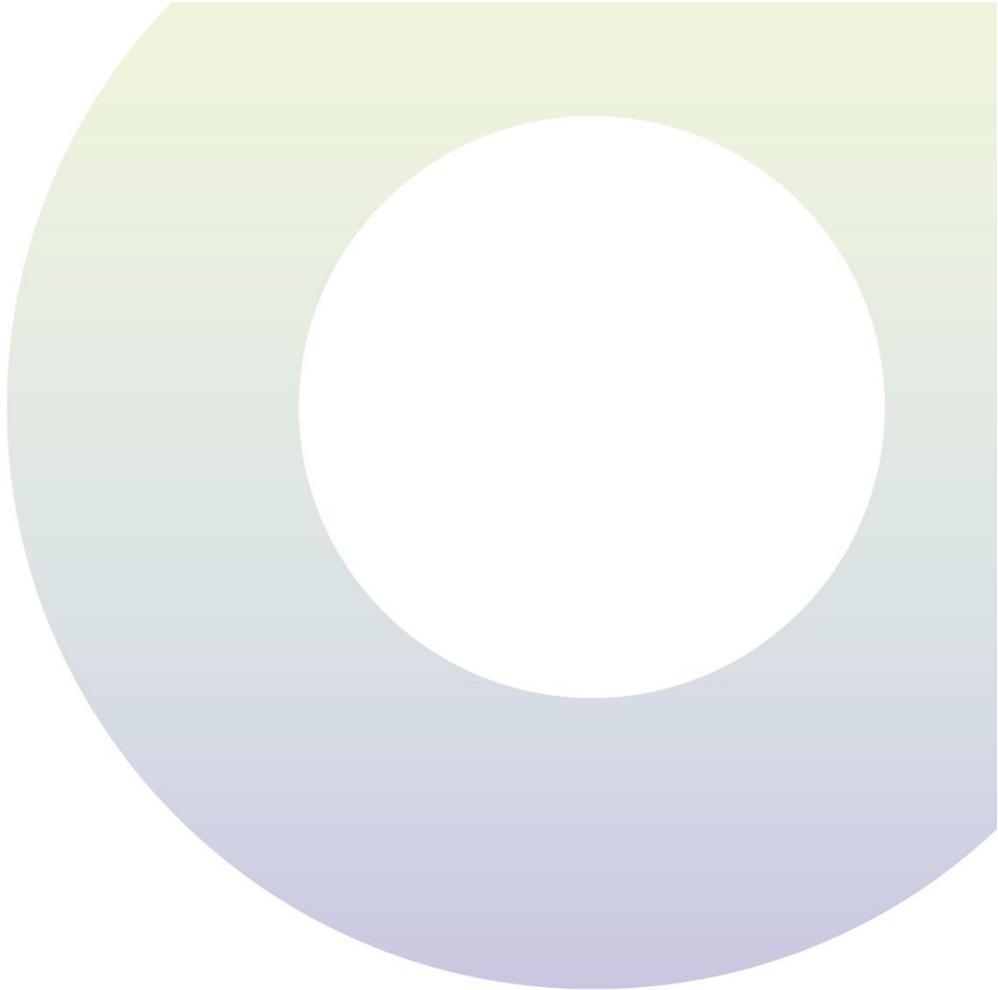
Within the response Ms Sherrington repeated much of the evidence that she gave during the course of the investigation.

Section 50(2) of the ICAC Act requires that I now include a fair representation of that response. It does not require that I summarise the entirety of that response and I do not intend to do so.

I consider a fair representation of that response to be as follows:

1. Numerous factual findings made by the ICAC and set out in the report are disputed.
2. Numerous factual findings made by the ICAC and set out in the report are denied.
3. Numerous factual findings made by the ICAC and set out in the report are misleading and require clarification.
4. Numerous factual findings made by the ICAC and set out in the report are not findings of dishonesty or corruption but instead constitute findings of “*improper conduct*” which are also disputed and/or denied.
5. The “*notion of artificially inflating school attendance records*” and the figures used for the same is denied and/or disputed.
6. “*It is unfair to consider all failings of the school council as a reflection on me personally*”.
7. There is “*no foundation*” for “*statements*” made within the report.
8. There is disagreement with assessments made of “*my motivation*” within the report.
9. “*No instances of unwarranted travel have been disclosed in the ICAC examination. Further all travel has been recorded and approved*”.

10. *"I delegated much of my travel administration paperwork to my office administrators at school and they liaise with DOE travel officers to arrange flights".*
11. *"I was actively working on ways to try to reduce the cost of travel for the school budget in the 2020 year, when I was removed from the school by the ICAC".*
12. *"Employment of family in remote settings is extremely common for many reasons".*
13. *"All engagements of family members by myself were either with the knowledge and encouragement of the DOE" and/or "they were casual positions funded by the School Council, with the knowledge and approval of the School Council" or "DOE engagements with the consent and knowledge of the DOE".*
14. Breach of policy concerning completion of conflict of interest forms is *"acknowledged"*.
15. *"All decisions were made in the best interests of the school"*.
16. *"I have always only spent funding in the best interests of the school, have always worked within my budgets, and the school has successfully passed all of its external annual and special audits for the whole of my tenure"*.
17. *"The Findings are wrong and not supported by the evidence. No regard has been had to my explanations, or to extrinsic documents supporting my explanations, nor has any attempt been made to validate or invalidate my explanations"*.



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